

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Docket No: Q77174

Takayuki TSUTSUMI, et al.

Appln. No.: 10/648,277

Group Art Unit: 2416

Confirmation No.: 4437

Examiner: Andrew W. Chriss

Filed: August 27, 2003

For: FAST ROAMING SYSTEM

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated September 1, 2009. Entry of this Reply Brief is respectfully requested.

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I. STATUS OF CLAIMS

Claims 1-29 are all of the claims pending in the application.

Claims 1-3, 5, 6, 8-17, 19, 20, and 22-29 stand finally rejected as follows and are the basis for this appeal:

Claims 1-3, 6, 12, 15-17, 20, 28, and 29 are rejected under 35 U.S.C. § 102(c) as allegedly being anticipated by U.S. Patent Application Publication No. 2002/0025810 to Takayama et al. (hereinafter “Takayama”).

Claims 5 and 19 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of U.S. Patent Application Publication No. 2001/0046879 to Schramm et al. (hereinafter “Schramm”).

Claims 8, 9, 22, and 23 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of U.S. Patent No. 6,393,282 to Imori (hereinafter “Imori”).

Claims 10 and 24 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of U.S. Patent No. 5,864,578 to Yuen (hereinafter “Yuen”).

Claims 11 and 25 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of U.S. Patent Application Publication No. 2003/0123405 to del Prado et al. (hereinafter “del Prado”).

Claims 13, 14, 26, and 27 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of U.S. Patent Application Publication No. 2004/0063426 to Hunkeler (hereinafter “Hunkeler”).

Claims 4, 7, 18, and 21 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-3, 6, 12, 15-17, 20, 28, and 29 are improperly finally rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Takayama.

Whether claims 5 and 19 are improperly finally rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of Schramm.

Whether claims 8, 9, 22, and 23 are improperly finally rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of Iimori.

Whether claims 10 and 24 are improperly finally rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of Yuen.

Whether claims 11 and 25 are improperly finally rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of del Prado.

Whether claims 13, 14, 26, and 27 are improperly finally rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Takayama in view of Hunkeler.

III. ARGUMENT

In this Reply Brief, Appellant addresses below certain points raised in the Examiner's Answer as mailed on September 1, 2009.

A. Rejection of Claims 1-3, 6, 12, 15-17, 20, 28, and 29 under 35 U.S.C. § 102(e)

In the Appeal Brief dated May 26, 2009, Appellant respectfully submitted that Takayama does not disclose a mobile terminal comprising the following features, recited in claim 1:

an access point search unit for searching for peripheral connectable access points and for obtaining access point data, [... and]

an access point data table in which the access point data detected and obtained by the access point search unit are recorded

Appellant respectfully submitted that instead of a mobile terminal searching for peripheral connectable access points and obtaining access point data, and instead of a data table where the data obtained by the mobile terminal is recorded, according to Takayama, the station downloads hopping information of neighboring access points from the subscription access point (see paragraph 0077 of Takayama).

In response to these arguments for patentability, the Examiner asserts in the Examiner's Answer that the mobile terminal disclosed in Takayama includes a CPU that scans and monitors beacons for peripheral access point data for storage in a database. The Examiner further asserts that the scanning operation disclosed in Takayama is the same as the claimed searching for peripheral access points. See pages 8-9 of the Examiner's Answer.

Appellant respectfully disagrees with the Examiner's assertions. According to Takayama, the mobile station monitors the beacon to mate with the hopping frequency of the neighboring access point since all access points are operated synchronously. The station thus determines the latest radio situation of the neighboring access point, about which information has previously been downloaded as part of a database (*see* paragraphs [0077], [0080], and [0081] of Takayama). When the beacon quality of the current subscription (connected) access point becomes smaller than the threshold value, the station can see the database, and thus fits the hopping channel and the hopping pattern to the neighboring access point having the best communication environment (*see* paragraph [0081] of Takayama).

Thus, according to Takayama, neither the beacons monitored by the mobile station nor any data stored in the beacons are stored in a database. Instead, the database including hopping information of up to four access points around the current subscription point is downloaded from the subscription (current) access point (*see* paragraph [0077] of Takayama). The beacons which are monitored by the mobile station according to Takayama do not provide any access point data for storage in the database but rather are merely used to determine which neighboring access point to select when the quality of the current subscription access point has fallen below a threshold value.

The claim requires that the access point data detected and obtained by the access point search unit be recorded in the access point data table. As discussed above, scanning operation according to Takayama is used to determine radio signal characteristics, but this information is merely used to determine which neighboring access point to select when the quality of the

current subscription access point has fallen below a threshold value--this information is not stored in the database including the downloaded hopping information of up to four access points being provided around the current subscription access point. The information in the database is information obtained by the current subscription access point, not access point data detected and obtained by the access point search unit, as required by the claim.

Appellant thus disagrees with the Examiner's assertion that the access point data is downloaded by the station during the beacon scanning operation.

Additionally, Appellant respectfully submits that searching the memory in which the access point data is received to check that the hopping information of registered neighboring access points are saved and registered is not the same as the features discussed above because the claim requires that the access point search unit detects and obtains the access point data. A person of ordinary skill in the art would understand that searching for access point data stored in memory is merely retrieving previously detected and obtained data, not detecting and obtaining access point data as required by the claim.

Appellant thus respectfully disagrees with the Examiner's assertion that a memory that stores hopping information associated with registered neighboring access points is the same as the claimed access point data table in which the access point data detected and obtained by the access point search unit are recorded (*see* pages 9-10 of the Examiner's Answer). Additionally, the Examiner points to disclosure in Takayama related to forming information as a database, but Appellant respectfully submits that, as discussed above, it is the data downloaded from the

subscription (current) access point which is formed as a database, not the beacons or any other information detected and obtained by an access point search unit.

Accordingly, at least for these reasons, as well as for the reasons discussed in the Appeal Brief, Appellant respectfully submits that Takayama does not disclose or fairly suggest, “an access point search unit for searching for peripheral connectable access points and for obtaining access point data,” and, “an access point data table in which the access point data detected and obtained by the access point search unit are recorded,” as required by the claim.

B. Conclusion

For the above reasons as well as the reasons set forth in Appeal Brief, Appellant respectfully requests that the Board reverse the Examiner’s rejections of all claims on Appeal. An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,

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